

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director 954-797-1101
Prepared by: Marcie Oppenheimer Nolan, Deputy Planning and Zoning Manager and Andre Parke, Assistant Town Attorney

SUBJECT: Ordinance amending the land development code
Hobby Farms and Rural Lifestyle Fences

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)10-1-05, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY AMENDING SECTION 12-286 ENTITLED RURAL LIFESTYLE REGULATION, SUBSECTION (B); PROVIDING SUPPLEMENTAL REGULATIONS FOR FENCES; AMENDING SECTION 12-309(A) ENTITLED REVIEW FOR VARIANCES; PROVIDING FOR FENCE DESIGN VARIANCES IN THE RURAL LIFESTLYE; AMENDING SECTION 12-34 ENTITLED STANDARDS ENUMERATED SUBSECTION (B) ANIMALS ADDING SUBSECTION (12); PROVIDING FOR INTENT SECTION AND REGULATIONS FOR THE MAINTENANCE OF HOBBY FARMS; AND AMENDING SECTION 12-503 ENTITLED DEFINITIONS; PROVIDING FOR DEFINITIONS FOR HOBBY FARMS; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

In an ongoing effort to preserve and maintain the rural lifestyle of Davie, the Town has adopted various regulations to further this goal, including Rural Lifestyle Regulations and "Hobby Farm" Ordinance.

The following proposed amendments to the land development code represent small modifications consistent with the Town's goal of preservation and maintenance of the rural lifestyle.

Proposed Rural Lifestyle Fence Amendment

Town Council approved the Rural Lifestyle Regulations in October 16, 2002. At the time, the land regulations provided specific fence styles in the one unit per acre land use category. In addition, fence height was limited to 4 feet if the parcel was located along a road right of way. Upon implementation of this provision, there have been several property owners that had expressed frustration at the restriction of the code particular to their individual circumstances. Currently, the land development code provides no form of relief in situations like this, as the code allows variances only for height, area, number of parking spaces, plant sizes, and separation requirements.

The proposed code language would allow a homeowner to petition Town Council for a variance, under the rural lifestyle regulations, upon a showing that a particular circumstance requires an alternative fence design.

The proposed language includes three (3) changes.

1. Inclusion in the variance section to provide for this form of relief;
2. Change from a required 4' fence along all road rights-of-way to only along scenic corridors; and
3. The actual language within the Rural Lifestyle Regulations providing for recognition of a hardship and the variance form of relief.

Hobby Farm

Town Council adopted the Hobby Farm ordinance on October 5, 2003. The intent of the regulation is to protect existing hobby farms, where legally permitted, from any subsequent change in regulations.

The language is included in the code amendment to codify the Hobby Farm ordinance into the Land Development Code.

PREVIOUS ACTIONS: N/A

CONCURRENCES: This item was approved at the November 9, 2005 Local Planning Agency meeting. The vote was 3-1 (Mr. McLaughlin absent and Mr. Bender opposed). Mr. Bender stated his reason for opposing the proposed language was due to concern that allowing shadowbox fences would defeat the intent of the rural lifestyle regulations.

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds the application complete and suitable to transmittal for Town Council action.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)10-1-05, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY AMENDING SECTION 12-286 ENTITLED RURAL LIFESTYLE REGULATION, SUBSECTION (B); PROVIDING SUPPLEMENTAL REGULATIONS FOR FENCES; AMENDING SECTION 12-309(A) ENTITLED REVIEW FOR VARIANCES; PROVIDING FOR FENCE DESIGN VARIANCES IN THE RURAL LIFESTLYE; AMENDING SECTION 12-34 ENTITLED STANDARDS ENUMERATED SUBSECTION (B) ANIMALS ADDING SUBSECTION (12); PROVIDING FOR INTENT SECTION AND REGULATIONS FOR THE MAINTENANCE OF HOBBY FARMS; AND AMENDING SECTION 12-503 ENTITLED DEFINITIONS; PROVIDING FOR DEFINITIONS FOR HOBBY FARMS; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie encourages the preservation of the rural lifestyle; and

WHEREAS, the Town of Davie has enacted legislation to protect the rural lifestyle; and,

WHEREAS, upon review of the existing legislation minor changes have been recommended to provide property owners with avenues of relief depending upon certain property specific situations regarding fences, and

WHEREAS, the adopted of the Hobby Farm Ordinance No. 2003-044 is requires codification to include in the Code of Ordinances of the Town of Davie..

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Section 12-286, "Rural Lifestyle Regulations," of the Town Code is hereby amended as follows:

12-286. Intent, applicability, and boundaries

(B) *Supplemental Restrictions.*

(1) *Fences.* Fences located within the front setback or adjacent to a scenic corridor ~~road~~ ~~right-of-way~~ shall be a maximum of four (4) feet in height. In all other locations, fences shall be a maximum of six (6) feet in height. Fences are allowed as of right designed as one of the following styles:

(a) Split rail fence

(b) Green or black vinyl clad chain link fence

(c) Decorative white picket fences

(d) Shadow box may be permitted within the building envelope.

(e) Other fence material as approved at time of site plan approval meeting the intent of the Rural Lifestyle Initiative.

All fences types shall maintain a maximum of fifty (50) percent opacity. On a case by case basis where a property owner believes there is a hardship relative to adhering to one of the fence styles indicated in (B)(1)(a) through (e) above, a variance may be requested in accordance with Section 12-309. The applicant (property owner) shall demonstrate evidence that the requested variance meets all findings of fact contained in Section 12-309(B)(1)(a) - through (c). Further, the applicant shall provide evidence detailing the reasons that one of the aforementioned fence styles above can not be utilized.

SECTION 2. That Section 12-309, "Variances," of the Town Code is hereby amended as follows:

12-309. Review for Variances

(A) A variance may only be considered for height, area, number of required parking spaces, or plant units, size of structure or size of yards and open spaces, fence design in the rural lifestyle, and separation requirements.

SECTION 3. That Section 12-34, "Standards Enumerated," of the Town Code is hereby amended as follows:

(12) Hobby Farm

(a) Intent. The intent of this section is to safeguard the rights of Davie residents to continue to conduct limited agricultural activities within "semi-rural residential neighborhoods" within the Town and provide protections under the code for those residents conducting limited agricultural activities as defined within this section and section 12-503.

(b) Hobby Farm locations. Hobby farms are permitted in any residential neighborhood within the Town, where limited agricultural activities are not prohibited by the Davie Town Code at the time of the adoption of Ordinance No. 2003-044.

(c) Nuisance Provisions. No maintenance of a "Hobby Farm" as defined within this section shall be deemed to be a nuisance if said activities were not a nuisance at the time of the adoption of Ordinance No. 2003-044 and the agricultural activities conducted on the property conform to Central Broward Water Management Board Best Management practices for that type of agricultural activity.

No limited agricultural activities conducted in the maintenance of a "Hobby Farm" shall be deemed to be a public or private nuisance due to a change in the type of limited agricultural activity being conducted, a change in conditions in or around the locality of the semi-rural area or a change in the ownership of the property on which the "Hobby Farm" is situated.

(d) Non-conforming Status. In the event of future land use amendments or zoning changes to the contrary, any land use amendments or zoning changes to the contrary, any limited agricultural activity in a semi-rural area previously existing or commenced Ordinance No. 2003-044 shall become a legal non-conforming use, notwithstanding any change in ownership or change in the type of limited agricultural activity being conducted on the property.

SECTION 4. That Section 12-503, "Definitions," of the Town Code is hereby amended as follows:

Hobby Farm shall mean a parcel of land located in an existing or designated semi-rural area, with or without a residential dwelling and/or accessory buildings, where limited agricultural activities for primarily recreational purposes are not prohibited at the time of the adoption of this act and which does not meet the criteria to be classified as a "farm" under the Florida Statutes or Section 12-34 (B)(16) of the Davie Town Code.

Semi-Rural Area shall mean existing residential neighborhoods within the Town, where limited agricultural activities are not prohibited by the Davie Town Code at the time of the adoption of this act.

Limited Agricultural Activities shall mean agricultural uses as defined under Chapter 12 of the Davie Town Code, not qualifying as a "farm" under the Florida Statutes.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 7. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2005

PASSED ON SECOND READING THIS _____ DAY OF _____, 2005

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2005